

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

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|--------------------------------|---|----------------------|
| ZACHARIAH L. SCHULTZ, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | No. 05-4031-CV-C-NKL |
| |) | |
| MISSOURI DEPT. OF CORRECTIONS, |) | |
| et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

On March 10, 2006, the United States Magistrate Judge recommended dismissing plaintiffs' claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). No exceptions have been filed.

A review of the record convinces the court that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's March 10, 2006 Report and Recommendation is adopted [45]. It is further

ORDERED that defendants' motions for summary judgment are granted and plaintiffs' claims are dismissed, with prejudice, with the exception of plaintiffs' state law claims, which are dismissed, without prejudice [22, 40]. It is further

ORDERED that motion of Missouri Department of Corrections to dismiss is denied, without prejudice [35].

/s/

NANETTE K. LAUGHREY
United States District Judge

Dated: May 8, 2006
Jefferson City, Missouri